

REMARKS

This reply is fully responsive to the Office Action dated November 28, 2005, and is filed within six - (6) months following the mailing date of the Office Action.

Claims Status Summary:

Claims 1 - 11 are pending in the application.

Claims 1 was rejected under 35 U.S.C. 102(b) as being anticipated by Fukazawa et al.

Claims 2, 4 - 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fukazawa in further in view of Perron III.

Claims 3, 10 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fukazawa and Perron III in further in view of McNamara.

Claims 11 was rejected under 35 U.S.C. 103(a) as being unpatentable over Fukazawa and Perron III and McNamara in further in view of themselves.

Claims 12 to 14 are newly added.

Amendment to the Specification:

The specification has been amended to correct the title of the present patent application. No new subject matter has been added.

Claim Rejections – 35 USC 102(b):

The Office Action rejected claims 1 under 35 U.S.C. 102(b) as being anticipated by Fukazawa (JP09212615), hereinafter referred to as "Fukazawa."

Applicants respectfully traverse the rejection and the interpretation of the Fukazawa reference. It is well settled that an anticipatory reference must teach every one of the limitations of the claim(s) alleged to be anticipated thereby. In order to establish a

prima facie case of anticipation, the Office Action must set forth an argument that provides a single reference that teaches or enables each of the claimed elements (as arranged in the claim) either expressly or inherently and as interpreted by one of ordinary skill in the art. All of these factors must be present, or a case of anticipation is not met.

5 Thus, anticipation requires that every element of the claims appear in a single reference. It is respectfully submitted that Fukazawa lacks, and does not disclose, teach, or suggest (implied or otherwise) the claimed limitations of claim 1, and therefore, cannot and does not anticipate, nor render as obvious the limitations of this claim.

10 Claim 1, recites, *inter alia*,

“A memory module indicator device having a indicator circuit using an indicator element to indicate situation of access to readable and writable semiconductor memory mounted on a standardized memory module connected to a computer,

15 *wherein the indicator element is provided corresponding to a type of access to the semiconductor memory; and*

wherein the indicator circuit uses the indicator element corresponding to the access type to indicate frequency of the type of access to the semiconductor memory.”

20 In particular, Fukazawa lacks, and does not disclose, teach, or suggest (implied or otherwise) the claimed limitation of indicating “...*frequency of the type of access to the semiconductor memory...*”

The Office Action states:

25 “Fukazawa teaches a memory module indicator device having an indicator circuit using an indicator element to indicate the type and frequency of access to semiconductor memory composing a standardized memory module (see figures 4-5).”

Fukazawa merely teaches a means for easily recognizing an access mode (read or write) of a memory card, but completely lacks the claimed limitation in relation to "...frequency of the type of access to the semiconductor memory..." Fukazawa reference merely discloses a memory card with LEDs (indicator elements), which are activated when the memory card is accessed. According to Figs. 4 and 5, two LEDs are disclosed, one of which indicates a "write" access and the other of which indicates a "read" access.

In fact, fundamentally, Fukazawa reference does not even have a simple means to count the number of accesses to the memory unit, much less, the frequency of access, and even less, the frequency of the type of access. It should be noted that the Office Action in relation to claim 1 interpreted the Fukazawa reference to teach "... frequency of access to the semiconductor memory..." whereas the claimed limitation recites "frequency of the type of access to the semiconductor memory." (Emphasis added.) Stated otherwise, hypothetically, even if Fukazawa supposedly did teach, "frequency of access to semiconductor memory composing a standardized memory module," as purported by the Office Action, the reference would still lack the claimed limitation of "frequency of the type of access to the semiconductor memory." (Emphasis added.) In other words, it is respectfully submitted that according to the incorrect interpretation of this reference by the Office Action, the Fukazawa reference would only provide teachings with respect to frequency of access, and not the frequency of the type of access. That is, Fukazawa must still somehow distinguish between the type of access and then determine frequency of that particular type of access, and not just frequency of access in order to meet the claimed language. Therefore, Fukazawa clearly lacks, and is completely silent with respect to determining the claimed limitation of "frequency of the type of access to the semiconductor memory."

Accordingly, for all the above-mentioned reasons, Applicants respectfully request the withdrawal of the rejection of claim 1 under 35 U.S.C. 102(b) because Fukazawa neither anticipates nor renders as obvious the recited claim limitations.

Therefore, Applicants respectfully submit that claim 1 is allowable over the cited reference and solicit reconsideration and allowance of this claim.

Claim Rejections – 35 USC 103(a):

5 The Office Action rejected claims 2, and 4-9 under 35 U.S.C. 103(a) as being unpatentable over Fukazawa in view of Perron III (4,919,030), hereinafter referred to as "Perron," and further, in view of an Official Notice taken by the Examiner.

CLAIMS 2 to 11:

10 Claims 2 to 7 depend from claim 1, and hence, incorporate all the limitation of claim 1. Claim 9 depends from the independent claim 8, and claim 11 depends from the independent claim 10. Therefore, claims 9 and 11 incorporate all the limitations of their respective independent claims 8 and 10.

15 Applicants respectfully traverse the rejection, the interpretation, and the modification of the references.

As has been correctly acknowledged on pages 2 and 3 of the Office Action in relation to claims 2, and 4 to 9:

20 "Fukazawa does not teach that an indicator device may count, display, and 'hold' an indication corresponding to the maximum frequency of access corresponding to an access type measured within a period of time utilizing multiple display elements."

25 In fact, as was stated above, Fukazawa merely teaches a means for easily recognizing an access mode (read or write) of a memory card, but completely lacks the claimed limitation of claim 1 "*...frequency of the type of access to the semiconductor*

memory...” and that of claims 8 and 10, *inter alia*, “...*frequency of access.*” Details of Fukazawa are discussed above.

The Office Action indicates (on page 3, lines 5 to 9) an interpretation of Perron disclosure as “Perron teaches an visual indicator device composed of a common counter circuit which may measure a frequency by way of counting events within a periodic interval, and a display and “hold” a representation of the maximum count representing that frequency utilizing common counter, and indicators (see figure 1 Counter A, Latch A and element 388).”

Applicant respectfully traverses this interpretation of Perron disclosure.

In column 3, lines 21 to 24, Perron discloses, “the present invention determines whether a certain signal, note, or sound has been initiated earlier than a correct instant in time, at the correct instant in time, or after the correct instant in time.” Namely, element 38 is used for indicating whether a certain signal is on time or not. Further, column 5, lines 35 to 38 state “The eighth LED 388 is lit showing that 8 milliseconds elapsed between the time the first signal came into the channel one input until the second signal came into the channel two input.” The cited statement discloses that LED 388 indicates a time difference between the arrival of the first signal and the second signal into the respective channel one and channel two. This has nothing to do with actual counting nor frequency of an “occurrence,” but is related to timing arrival of signals.

Further, column 5, lines 2 to 4 of Perron disclose, “The 1 to 13 counter 24 receives the clock output signal C1 at clock in 25 and counts up on each clock pulse.”

Thus, counter 24 is merely an up counter, which counts up for each incoming clock pulse. In addition, even though the counted value is latched by Latch A and shown by LED 38, this value is merely indicative of an elapsed time, which is the period since the counter 24 started counting based on each incoming “clock pulse.” It should be noted that the duration of the time to allow counter 24 to count up is varied from time to time, based on

the timing of the incoming pulses. On the contrary, to measure frequency, the duration of time must be fixed.

The Office Action on page 3, lines 5 to 9 states "Perron III teaches an visual
5 indicator device composed of a common counter which may measure a frequency by way
of counting events within a periodic interval." It is respectfully requested that in the next
Office Action the Applicant be provided with specific column and line number within
Perron that states that the common counter may measure frequency. In fact, the term
"frequency" does not even appear in the Perron patent.

10 Further, it is respectfully requested that in the next Office Action the Applicant be
provided with specific column and line number within Perron that states that the
"measured frequency" is "a representation of the maximum count representing that
frequency utilizing common counters, and indicators." Again, the term "frequency" does
15 not even appear in the Perron patent. Of course, if it is indeed the case where Perron
determines frequency, and that frequency is a representation of the maximum count
representing that frequency utilizing common counters, and indicators, then the reason
for the Official Notice by the Office Action to further modify Perron by adding a
complex multiplexing circuit with clock dividers to determine frequency is not clear. It is
20 respectfully submitted that Perron cannot be used to determine frequency of access,
which is the reason for which the Office Action has used the Official Notice.

In order to meet the claimed limitations of claims 2 to 11, which is lacked by both
Fukazawa and the Perron references, the Office Action takes Official Notice by making a
25 statement that is somehow related to the modification of the Perron reference, and then
takes the modified Perron teachings (modified by the Official Notice) and combines it
with the Fukazawa to modify the Fukazawa reference. It is respectfully submitted that
the statement of the Official Notice is very confusing, and is not understood. The

Official Notice taken by the Office Action seems to be the single sentence that seems to start on page 3, line 5, and ends on line 14 of the same page.

Page 3, lines 5 to 14 of the Office Action state:

5 “Perron III teaches an visual indicator device composed of a common counter
circuit which may measure frequency by way of counting events within a periodic
interval, and display and “hold” a representation of the maxium counter
representing that frequency utilizing common counters, and indicators (see
10 figures 1 Counter A, Latch A and element 388), and which may be further
adapted by what is considered to be common knowledge to one of ordinary skill in
the art (and for which official notice of this view is given) to multiplex a common
counter circuit element between multiple latched indicators utilizing a periodic
signal derived from a divided down reference clock signal such that a
representation of an arbitrary number of signal frequencies measured and
15 correspondingly alternately indicated.”

Regardless of the confusion, Applicant strongly traverse the assertions made by
the Official Notice (page 3, lines 5 to 14) in the Office Action, and respectfully demands
evidence from the Office to cite a reference, which antedates the effective filing date of
20 the present application, and that supports such a position with respect to the actual
language of the claim of the present invention, in the next non-Final Office Action.
MPEP 2144.03.

Accordingly, as required by MPEP 2144.03, the evidence from the Office must
25 show as common knowledge the following Official Notice assertions, which are used to
reject the claims:

- multiplexing a common counter circuit element;
 - between multiple latched indicators;
 - utilizing a periodic signal;

- derived from a divided down reference clock signal;
 - such that a representation of an arbitrary number of signal frequencies measured and
 - correspondingly alternately indicated.

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Furthermore, as required by the MPEP 2144.03, if such assertions by the Official Notice in the Office Action is based on facts within the personal knowledge of the Examiner, it is respectfully requested that an affidavit from the Examiner be provided to Applicant, stating specifically the facts that support such assertions that show as common

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knowledge the following Official Notice assertions, which are used to reject the claims:

- multiplexing a common counter circuit element;
 - between multiple latched indicators;
 - utilizing a periodic signal;
 - derived from a divided down reference clock signal;
 - such that a representation of an arbitrary number of signal frequencies measured and
 - correspondingly alternately indicated.

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It should be noted that the technology taught by the present application and claimed, is highly technical, related to computers and electronics, requiring highly skilled computer and electronics personnel, and therefore a true esoteric technology. The MPEP 2144.03 states that "Assertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work" and "allegations concerning specific 'knowledge' of the prior art, which might be peculiar to a particular art **should be supported.**" (Emphasis added.) Hence, Applicants respectfully request that the Examiner provide a citation of reference work that supports the specific technical assertions made in the Office Action, and that specifically proves that those assertions are indeed as "common knowledge" of the prior art. Please see the list of above assertions.

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Further, even if all assertions are supposedly factual and are supported, none of the prior art references contain any suggestion (expressly or implied) that they be modified or combined, or that they be modified or combined in the manner suggested by the Official Notice. Each reference is complete and functional in itself, so there would be no reason to, for example, use the counter from Perron or add or substituted the plurality of complex components and circuitry suggested by the Official Notice to modify **both** references and then combine them. Further, the Fukazawa is related to memory devices, and the Perron reference is related to musical instruments and timing signals, making them non-analogous art for combination. Of course, even if both references are combined using the Official Notice, the combination would still not meet the claimed limitation of claim 1 “...*frequency of the type of access to the semiconductor memory,*” nor that of claims 8 and 10, “*frequency of access.*” The term “frequency” is not found in any of the references.

Clearly, the combination suggested by the Office Action, especially in view of the Official Notice, requires a series of separate, awkward combinative steps that are too involved to be considered obvious for modification and combination of the references. A mere cursory review of the Official Notice (assertions listed below) reveals the level of complexity within the suggested steps:

- multiplexing a common counter circuit element;
 - between multiple latched indicators;
 - utilizing a periodic signal;
 - derived from a divided down reference clock signal;
 - such that a representation of an arbitrary number of signal frequencies measured and
 - correspondingly alternately indicated;
 - Further, after all the above steps taken to modify the Perron reference, then additional steps must be taken

to modify the Fukazawa teachings.
These additional steps are too
involved and numerous to mention,
even with a bullet point summary.

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Regardless, for this replay, without any evidence by the Office for the Official Notice taken that erroneously asserts as “common knowledge” complex electronics circuitry, Applicant respectfully requests the withdrawal of the rejection of all of the claims 2 to 11 under 35 USC 103(a) because the references (including the assertions
10 made by the Official Notice) do not render as obvious the claimed limitations for all the aforementioned reasons. Hence, Applicant respectfully submits that claims 2 to 11 are allowable over the cited references and solicits reconsideration and allowance of all the claims. Further, and in particular, since claims 3 to 7, 9, and 11 depend from the respective independent claims 1, 8, and 10, and incorporate all of their limitations, they
15 are patentable for the same reasons given with respect to claims 1, 8, and 10, and include additional limitations, which further distinguish them from the references cited. Therefore, Applicant respectfully submits that claims 3 to 7, 9, and 11 are also allowable over the cited references and solicits reconsideration and allowance of these claims.

20 **Claims 10 and 11:**

The Office Action rejected claim 11 under 35 USC 103(a) as being unpatentable over Fukazawa, Perron and McNamara (3,904,861) in further view of themselves, and in view of the Official Notice taken by the Examiner.

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Claim 11 depends from the independent claim 10, which recites, inter alia, the limitation of “*frequency of access.*”

Fukazawa has been discussed above, and shown that it lacks this limitation.
Perron has been discussed above, and shown that it lacks this limitation.

Fukazawa in view of Perron has been discussed above, and acknowledged by the Office Action that the combination lacks this limitation, and therefore, an Official Notice was taken by the Examiner for meeting this limitation.

5 Fukazawa in view of Perron and in view of the Official Notice was discussed above, and shown that the combination lacks this claimed limitation.

Claim 10 further added the limitation of a motherboard with various connections, for which the Office Action used the McNamara reference to reject this claim. For the sake of brevity and clarity, and in view of the fact that the base references Fukazawa and Perron do not meet any of the claimed limitations of claim 10, the use of McNamara reference, and the specific section thereof cited by the Office Action (column 3, lines 56-62), seem to be mute. It is respectfully submitted that it would be sufficient to state that McNamara simply discloses a printed circuit testing unit. The Applicant is not claiming a testing circuit board, or mere connections thereof.

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With respect to claim 11, the Office Action has further correctly acknowledged that McNamara and all of the cited references lack the limitations of claim 11. To meet these limitations, the Office Action has taken Official Notice that: "...it is considered obvious to enable an indicator element sub-assembly to be mounted remotely by interconnecting it to its origin of control utilizing a common signal cable and corresponding connectors."

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Applicant **strongly** traverse the assertions made by the Official Notice (page 4, lines 14 to 17) in the Office Action, and respectfully demands evidence from the Office to cite a reference, which **antedates** the effective filing date of the present application, and that **supports** such a position with respect to the actual language of the claim of the present invention, in the next non-Final Office Action. MPEP 2144.03.

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Accordingly, as required by MPEP 2144.03, the evidence from the Office must show as common knowledge the following Official Notice assertions, which are used to reject the claims:

5 "...it is considered obvious to enable an indicator element sub-assembly to be mounted remotely by interconnecting it to its origin of control utilizing a common signal cable and corresponding connectors."

10 Furthermore, as required by the MPEP 2144.03, if such assertions by the Official Notice in the Office Action is based on facts within the personal knowledge of the Examiner, it is respectfully requested that an affidavit from the Examiner be provided to Applicant, stating specifically the facts that support such assertions that show as common knowledge the following Official Notice assertions, which are used to reject the claims:

15 "...it is considered obvious to enable an indicator element sub-assembly to be mounted remotely by interconnecting it to its origin of control utilizing a common signal cable and corresponding connectors."

20 As was stated above, it should be noted that the technology taught by the present application and claimed, is highly technical, related to computers and electronics, requiring highly skilled computer and electronics personnel, and therefore a true esoteric technology. The MPEP 2144.03 states that "Assertions of technical facts in areas of esoteric technology must always be supported by citation of some reference work" and "allegations concerning specific 'knowledge' of the prior art, which might be peculiar to a particular art **should be supported.**" (Emphasis added.) Hence, Applicants respectfully
25 request that the Examiner provide a citation of reference work that supports the specific technical assertions made in the Office Action, and that specifically proves that those assertions are indeed as "common knowledge" of the prior art.

Further, even if all assertions are supposedly factual, none of the prior art references contain any suggestion (expressly or implied) that they be modified or combined, or that they be modified or combined in the manner suggested by the Official Notice. Each reference is complete and functional in itself, so there would be no reason to use parts from or add or substituted parts to any reference as suggested by both Official Notices to modify three references, and then combine them.

Nonetheless, for this replay, without any evidence by the Office for the Official Notice taken that erroneously asserts as “common knowledge” complex electronics circuitry, Applicant respectfully requests the withdrawal of the rejection of claims 10 and 11 under 35 USC 103(a) because the references (including the assertions made by the Official Notice) do not render as obvious the claimed limitations for all the aforementioned reasons. Hence, Applicant respectfully submits that claims 10 and 11 are allowable over the cited references and solicits reconsideration and allowance of all the claims.

Claims 12 to 14:

Applicants have added the new claims 12 and 13, with claim 12 depending from claim 1, and claim 13 depending from claim 12. In addition, Applicants have added 14, which depends from claim 8. Since claims 12 and 13 depend from claim 1, and claim 14 depends from claim 8, and since claims 12, 13, and 14 incorporate all of the limitations of their respective independent claims, they are patentable for the same reasons given with respect to claims 1, 8, and 10, and include additional limitations, which further distinguish them from the references cited. Therefore, Applicant respectfully submits that claims 12, 13, and 14 are also allowable over the cited references and solicits reconsideration and allowance of these claims.

CONCLUSION

The Applicant respectfully submits that in light of the above comments and remarks, all claims are now in allowable condition. The Applicant thus respectfully requests timely allowance of all of the pending claims.

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In the event the Examiner wishes to discuss any aspect of this response, or believes that a conversation with either Applicant or Applicant's representative would be beneficial the Examiner is encouraged to contact the undersigned at the telephone number indicated below.

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The Commissioner is authorized to charge any additional fees that may be required or credit overpayment to the attached credit card form. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed. The petition fee due in connection therewith may be charged to deposit account no. 50-2738 if a credit card form has not been included with this correspondence or if the credit card could not be charged.


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Respectfully submitted,

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25 MAY 2006
Date


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